

1 **SENATE FLOOR VERSION**

2 April 9, 2024

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 3618

6 By: Harris and West (Tammy) of
7 the House

8 and

9 Rader of the Senate

10
11 **[motor vehicles - security interest - certificate of
12 title transfers - attestation - notice - affidavit -
13 lien - effective date]**

14 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

15 SECTION 1. AMENDATORY 47 O.S. 2021, Section 1110, as
16 amended by Section 1, Chapter 204, O.S.L. 2022 (47 O.S. Supp. 2023,
17 Section 1110), is amended to read as follows:

18 Section 1110. A. 1. Except for a security interest in
19 vehicles held by a dealer for sale or lease, a vehicle registered by
20 a federally recognized Indian tribe as provided in subsection G of
21 this section, and a vehicle being registered in this state which was
22 previously registered in another state and which title contains the
23 name of a secured party on the face of the other state certificate
24 or title, and except as otherwise provided in subsection B of
25 Section 1105 of this title, a security interest in a vehicle as to
26 which a certificate of title may be properly issued by the Oklahoma
27 Tax Commission shall be perfected only when a lien entry form, and

1 the existing certificate of title, if any, or application for a
2 certificate of title and manufacturer's certificate of origin
3 containing the name and address of the secured party and the date of
4 the security agreement and the required fee are delivered to the Tax
5 Commission or to a motor license agent. As used in this section,
6 the term "dealer" shall be defined as provided in Section 1-112 of
7 this title and the term "security interest" shall be defined as
8 provided in paragraph (35) of Section 1-201 of Title 12A of the
9 Oklahoma Statutes. When a vehicle title is presented to a motor
10 license agent for transferring or registering and the documents
11 reflect a lienholder, the motor license agent shall perfect the lien
12 pursuant to subsection G of Section 1105 of this title. For the
13 purposes of this section, the term "vehicle" shall not include
14 special mobilized machinery, machinery used in highway construction
15 or road material construction, and rubber-tired road construction
16 vehicles including rubber-tired cranes. The filing and duration of
17 perfection of a security interest, pursuant to the provisions of
18 Title 12A of the Oklahoma Statutes including, but not limited to,
19 Section 1-9-311 of Title 12A of the Oklahoma Statutes, shall not be
20 applicable to perfection of security interests in vehicles as to
21 which a certificate of title may be properly issued by the Tax
22 Commission, except as to vehicles held by a dealer for sale or lease
23 and except as provided in subsection D of this section. In all
24 other respects Title 12A of the Oklahoma Statutes shall be

1 applicable to such security interests in vehicles as to which a
2 certificate of title may be properly issued by the Tax Commission.

3 2. Whenever a person creates a security interest in a vehicle,
4 the person shall surrender to the secured party the certificate of
5 title or the signed application for a new certificate of title, on
6 the form prescribed by the Tax Commission, and the manufacturer's
7 certificate of origin. The secured party shall deliver the lien
8 entry form and the required lien filing fee within twenty-five (25)
9 days as provided hereafter with certificate of title or the
10 application for certificate of title and the manufacturer's
11 certificate of origin to the Tax Commission or to a motor license
12 agent. If the lien entry form, the lien filing fee and the
13 certificate of title or application for certificate of title and the
14 manufacturer's certificate of origin are delivered to the Tax
15 Commission or to a motor license agent within twenty-five (25) days
16 after the date of the lien entry form, perfection of the security
17 interest shall begin from the date of the execution of the lien
18 entry form, but otherwise, perfection of the security interest shall
19 begin from the date of the delivery to the Tax Commission or to a
20 motor license agent.

21 3. a. For each security interest recorded on a certificate
22 of title, or manufacturer's certificate of origin,
23 such person shall pay a fee of Ten Dollars (\$10.00),
24 which shall be in addition to other fees provided for

1 in the Oklahoma Vehicle License and Registration Act.
2 Upon the receipt of the lien entry form and the
3 required fees with either the certificate of title or
4 an application for certificate of title and
5 manufacturer's certificate of origin, a motor license
6 agent shall, by placement of a clearly distinguishing
7 mark, record the date and number shown in a
8 conspicuous place, on each of these instruments. Of
9 the ten-dollar fee, the motor license agent shall
10 retain Two Dollars (\$2.00) for recording the security
11 interest lien.

12 b. It shall be unlawful for any person to solicit,
13 accept, or receive any gratuity or compensation for
14 acting as a messenger and for acting as the agent or
15 representative of another person in applying for the
16 recording of a security interest or for the
17 registration of a motor vehicle and obtaining the
18 license plates or for the issuance of a certificate of
19 title therefor unless the Tax Commission has appointed
20 and approved the person to perform such acts; and
21 before acting as a messenger, any such person shall
22 furnish to the Tax Commission a surety bond in such
23 amount as the Tax Commission shall determine
24 appropriate.

1 4. The certificate of title or the application for certificate
2 of title and manufacturer's certificate of origin with the record of
3 the date of receipt clearly marked thereon shall be returned to the
4 debtor together with a notice that the debtor is required to
5 register and pay all additional fees and taxes due within thirty
6 (30) days from the date of purchase of the vehicle.

7 5. Any person creating a security interest in a vehicle that
8 has been previously registered in the debtor's name and on which all
9 taxes due the state have been paid shall surrender the certificate
10 of ownership to the secured party. The secured party shall have the
11 duty to record the security interest as provided in this section and
12 shall, at the same time, obtain a new certificate of title which
13 shall show the secured interest on the face of the certificate of
14 title.

15 6. The lien entry form with the date and assigned number
16 thereof clearly marked thereon shall be returned to the secured
17 party. If the lien entry form is received and authenticated, as
18 herein provided, by a motor license agent, the agent shall make a
19 report thereof to the Tax Commission upon the forms and in the
20 manner as may be prescribed by the Tax Commission.

21 7. The Tax Commission shall have the duty to record the lien
22 upon the face of the certificate of title issued at the time of
23 registering and paying all fees and taxes due on the vehicle.

24

1 8. When there is an active lien from a commercial lender in
2 place on a vehicle, motor license agents shall be prohibited from
3 transferring the certificate of title on that vehicle until the lien
4 is satisfied, except when the title is transferred:

5 a. to a person whose name is included on the loan for
6 which the lien is placed pursuant to an agreement by
7 the lender and any party to the title,

8 b. to a trust created by a person whose name is included
9 on the loan for which the lien is placed, ~~or~~

10 c. from a person who has died, upon the submission of a
11 death certificate, or

12 d. upon attestation by the managing member indicating
13 ownership, to a business entity from a person who owns
14 at least fifty percent (50%) of the business entity
15 receiving title. **As part of this transfer, the**
16 **business entity receiving title, at the discretion of**
17 **the financial institution holding the lien, may be**
18 **added as an obligor to the original note secured by**
19 **the collateral to which the transferring individual is**
20 **a borrower. This shall not be construed to require**
21 **refinancing of the original note.** Service Oklahoma
22 shall provide notification of the transaction to the
23 lienholder following the transfer of title and shall
24 develop an appropriate affidavit necessary to

1 effectuate a transfer of title. A title transfer
2 initiated pursuant to this subparagraph, shall not
3 preclude the lienholder from exercising all remedies
4 available to it in accordance with an agreement
5 between the lienholder and the individual transferring
6 title, up to and including repossession of the vehicle
7 and civil action against the **original borrower and**
8 **receiving business entity.** Further, until the
9 original lien is satisfied, the receiving business
10 entity shall be prohibited from transferring title to
11 another entity or person. Types of business entities
12 that may receive a transfer of title pursuant to this
13 subparagraph shall be limited to:

14 (1) sole proprietorships,

15 (2) general partnerships,

16 (3) limited partnerships,

17 (4) limited liability companies,

18 (5) professional limited partnerships, and

19 (6) professional limited liability companies.

20 **No individual may perform a transfer, pursuant to this**
21 **section, to any business entity that is currently engaging**
22 **in any activity which is prohibited by federal or state law.**

1 The provisions of this paragraph shall not be construed to release
2 any lien or debt based solely upon a transfer of certificate of
3 title.

4 B. 1. A secured party shall, within seven (7) business days
5 after the satisfaction of the security interest, furnish directly or
6 by mail a release of a security interest to the Tax Commission and
7 mail a copy thereof to the last-known address of the debtor. If the
8 security interest has been satisfied by payment from a licensed used
9 motor vehicle dealer to whom the motor vehicle has been transferred,
10 the secured party shall also, within seven (7) business days after
11 such satisfaction, mail an additional copy of the release to the
12 dealer. If the secured party fails to furnish the release as
13 required, the secured party shall be liable to the debtor for a
14 penalty of One Hundred Dollars (\$100.00). Following the seven (7)
15 business days after satisfaction of the lien and upon receipt by the
16 lienholder of written communication demanding the release of the
17 lien, thereafter the penalty shall increase to One Hundred Dollars
18 (\$100.00) per day for each additional day beyond seven (7) business
19 days until accumulating to One Thousand Five Hundred Dollars
20 (\$1,500.00) or the value of the vehicle, whichever is less, and, in
21 addition, any loss caused to the debtor by such failure.

22 2. Upon release of a security interest the owner may obtain a
23 new certificate of title omitting reference to the security
24

1 interest, by submitting to the Tax Commission or to a motor license
2 agent:

- 3 a. a release signed by the secured party, an application
4 for new certificate of title and the proper fees, or
- 5 b. by submitting to the Tax Commission or the motor
6 license agent an affidavit, supported by such
7 documentation as the Tax Commission may require, by
8 the owner on a form prescribed by the Tax Commission
9 stating that the security interest has been satisfied
10 and stating the reasons why a release cannot be
11 obtained, an application for a new certificate of
12 title and the proper fees.

13 Upon receiving such affidavit that the security interest has been
14 satisfied, the Tax Commission shall issue a new certificate of title
15 eliminating the satisfied security interest and the name and address
16 of the secured parties who have been paid and satisfied. The Tax
17 Commission shall accept a release of a security interest in any form
18 that identifies the debtor, the secured party, and the vehicle, and
19 contains the signature of the secured party. The Tax Commission
20 shall not require any particular form for the release of a security
21 interest.

22 The words "security interest" when used in the Oklahoma Vehicle
23 License and Registration Act do not include liens dependent upon
24 possession.

1 C. The Tax Commission shall file and index certificates of
2 title so that at all times it will be possible to trace a
3 certificate of title to the vehicle designated therein, identify the
4 lien entry form, and the names and addresses of secured parties, or
5 their assignees, so that all or any part of such information may be
6 made readily available to those who make legitimate inquiry of the
7 Tax Commission as to the existence or nonexistence of security
8 interest in the vehicle.

9 D. 1. Any security interest in a vehicle properly perfected
10 prior to July 1, 1979, may be continued as to its effectiveness or
11 duration as provided by Sections 1-9-510 and 1-9-515 of Title 12A of
12 the Oklahoma Statutes, or may be terminated, assigned or released as
13 provided by Sections 1-9-512, 1-9-513 and 1-9-514 of Title 12A of
14 the Oklahoma Statutes, as fully as if this section had not been
15 enacted, or, at the option of the secured party, may also be
16 perfected under this section, and, if so perfected, the time of
17 perfection under this section shall be the date the security
18 interest was originally perfected under the prior law.

19 2. Upon request of the secured party, the debtor, or any other
20 holder of the certificate of title shall surrender the certificate
21 of title to the secured party and shall do such other acts as may be
22 required to perfect the security interest under this section.

23 E. If a manufactured home is permanently affixed to real
24 estate, an Oklahoma certificate of title may be surrendered to the

1 Tax Commission or a motor license agent for cancellation. When the
2 document of title is surrendered, the owner shall provide the legal
3 description or the appropriate tract or parcel number of the real
4 estate and other information as may be required on a form provided
5 by the Tax Commission. The Tax Commission may not cancel a document
6 of title if a lien has been registered or recorded. The Tax
7 Commission or motor license agent shall notify the owner and any
8 lienholder that the title has been surrendered to the Tax Commission
9 and that the Tax Commission may not cancel the title until the lien
10 is released. Such notification shall include a description of the
11 lien and such notification to the owner shall be accompanied by the
12 return of title surrendered. Permanent attachment to real estate
13 does not affect the validity of a lien recorded or registered with
14 the Tax Commission before the document of title is canceled pursuant
15 to this section. The rights of a prior lienholder pursuant to a
16 security agreement or the provisions of a credit transaction and the
17 rights of the state pursuant to a tax lien are preserved. The Tax
18 Commission or motor license agent shall forward the information to
19 the county assessor of the county where the real estate is located
20 and indicate whether the original document of title has been
21 canceled. A fee of Five Dollars (\$5.00) shall accompany the
22 application for cancellation of title. When the fee is paid by a
23 person making an application directly with the Tax Commission, the
24 fee shall be deposited in the Oklahoma Tax Commission Revolving

1 Fund. A fee paid to a motor license agent shall be retained by the
2 agent. The owner of a manufactured home upon which the document of
3 title has been properly surrendered, may apply to the Tax Commission
4 for issuance of a new original certificate of title upon submission
5 of:

6 1. An attestation from the homeowner indicating ownership of
7 the manufactured home and the nonexistence of any security interest
8 or lien of record in the manufactured home; and

9 2. A title opinion by a licensed attorney, determining that the
10 owner of the manufactured home has marketable title to the real
11 property upon which the manufactured home is located and that no
12 documents filed of record in the county clerk's office concerning
13 the real property contain a mortgage, recorded financial statement,
14 judgment, or lien of record. Persons or entities to whom the title
15 opinion is addressed may rely on the title opinion. A security
16 interest in a manufactured home perfected pursuant to this section
17 shall have priority over a conflicting interest of a mortgagee or
18 other lien encumbrancer, or the owner of the real property upon
19 which the manufactured home became affixed or otherwise permanently
20 attached. The holder of the security interest in the manufactured
21 home, upon default, may remove the manufactured home from such real
22 property. The holder of the security interest in the manufactured
23 home shall reimburse the owner of the real property who is not the
24 debtor and who has not otherwise agreed to access the real property

1 for the cost of repair of any physical injury to the real property,
2 but shall not be liable for any diminution in value to the real
3 property caused by the removal of the manufactured home, trespass,
4 or any other damages caused by the removal. The debtor shall notify
5 the holder of the security interest in the manufactured home of the
6 street address, if any, and the legal description of the real
7 property upon which the manufactured home is affixed or otherwise
8 permanently attached and shall sign such other documents, including
9 any appropriate mortgage, as may reasonably be requested by the
10 holder of such security interest.

11 F. In the case of motor vehicles or trailers, notwithstanding
12 any other provision of law, a transaction does not create a sale or
13 security interest merely because it provides that the rental price
14 is permitted or required to be adjusted under the agreement either
15 upward or downward by reference to the amount realized upon sale or
16 other disposition of the motor vehicle or trailer.

17 G. A security interest in vehicles registered by a federally
18 recognized Indian tribe shall be deemed valid under Oklahoma law if
19 validly perfected under the applicable tribal law and the lien is
20 noted on the face of the tribal certificate of title.

21 SECTION 2. This act shall become effective November 1, 2024.

22 COMMITTEE REPORT BY: COMMITTEE ON AERONAUTICS AND TRANSPORTATION
23 April 9, 2024 - DO PASS AS AMENDED
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